

REMARKS

Claims 1-3 and 5-16 were examined. Claims 1-3, 5-9, and 11-12 are rejected. Claims 13-16 are allowed; and Claim 10 is objected to. Applicants note with appreciation, the Patent Office's objection to Claim 10 as objected to but allowable if rewritten in independent form. Applicants amend Claims 3 and 13, and reserve the right to prosecute the former claims in a divisional or continuation application. Applicants submit a replacement drawing sheet of Figure 1 for approval, amend titles to sections of the Specification, and assert that no new matter is added herein and that claims are fully disclosed in the Specification. Applicants respectfully request reconsideration of pending Claims 1-3, 5-9, and 11-12 as amended, in view of at least the following remarks.

I. Claims Rejected Under 35 U.S.C. §112

The Patent Office rejects claim 3 under 35 U.S.C. §112, second paragraph, as being indefinite because the function "has been sinking" is not supported by claim structure. In response, Applicants amend Claim 3 to replace "has been sinking" with "is immersed", and submit that Claim 3, as amended, complies with 35 U.S.C. § 112. Therefore, Applicants respectfully request that the Patent Office withdraw the rejection of Claim 3 under 35 U.S.C. § 112.

II. Claims Rejected Under 35 U.S.C. §102

The Patent Office rejects Claims 1-3, 6-9, and 11-12 under 35 U.S.C. § 102(b) as being clearly anticipated by U.S. Patent No. 2,637, 536 to DeMent ("DeMent").

Applicants respectfully disagree with the rejection and submit that independent Claim 1 is not anticipated by DeMent for at least the reason that DeMent does not describe "a decoy device for wake-following torpedoes . . . that reacts with sea water," as required by independent Claim 1. It is axiomatic that to be anticipated, every element of a claim must be disclosed within a single reference.

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First, DeMent describes methods and means for dispersing toxic materials in reservoirs, lakes, streams, rivers, open tanks, and the like in order to contaminate the water therein so that it would be hazardous if not fatal to drink (see col. 1, lines 1-4 and 11-17). However, the Patent Office has not identified and Applicants have been unable to find any description in DeMent of a device that reacts with sea water, as required by Applicants' independent Claim 1. Specifically, there is no mention in DeMent of dispersion of materials in sea water. Hence, Applicants assert that the Patent Office has failed to describe every element of independent Claim 1 in accordance with MPEP § 2131. Thus, Applicants respectfully request that the Patent Office withdraw the rejection of independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by DeMent for this first reason.

Second, DeMent describes dispersion of toxic material such as radioactive toxic material, radiological agent, bacterial toxic matter, herbicides and defoliating agents and the like in combination with gasogenic substances, into bodies of water, to effectively distribute the material via mechanical agitation (see col. 1, lines 11-30, and col. 2, lines 16-23). However, the Patent Office has not identified and the Applicants have been unable to find any description in DeMent of "a decoy device for wake-following torpedoes," as required by independent Claim 1. Specifically, DeMent makes no mention of motivation related to either a torpedo or a torpedo decoy device. Moreover, Applicants assert that DeMent does not describe a device enabled to provide a decoy for wake-following torpedoes. Specifically, just because DeMent describes certain gasogenic materials does not mean that the embodiments of gasogenic material described are capable of functioning as a torpedo decoy. For example, there is no support or description of the gasogenic materials of DeMent being capable of emitting sound signals resembling those from a ship, such as of a ship's wake. Thus, Applicants assert that the Patent Office has failed to describe the decoy device for wake-following torpedoes element of independent Claim 1 in accordance with MPEP § 2131. Hence, Applicants respectfully request that the Patent Office withdraw the rejection of independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by DeMent for at least this second reason.

In addition, Applicants assert that dependent Claims 2-3, 6-9, and 11-12, being dependent upon base Claim 1, are also not anticipated by DeMent for at least the foregoing reasons stated above with respect to independent Claim 1. Therefore, Applicants respectfully request that the Patent Office withdraw the rejection of dependent Claims 2-3, 6-9, and 11-12 under 35 U.S.C. § 102(b) as being anticipated by DeMent.

III. Claims Rejected Under 35 U.S.C. §103

The Patent Office rejects Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over DeMent.

Applicants respectfully disagree with the rejection and submit that dependent Claim 5 is not unpatentable over DeMent for at least the reason that DeMent does not teach, suggest, or describe either a decoy device for wake-following torpedoes, nor a device that reacts with sea water. To render a claim obvious, all elements of the claim must be taught or suggested by at least one properly combined reference of the combination.

As described above with respect to independent Claim 1, Applicants assert that DeMent does not teach or suggest the above-noted limitations of independent Claim 1. Hence, Applicants respectfully request that the Patent Office withdraw the rejection of dependent Claim 5 because dependent Claim 5 is based on Claim 1 which is allowable for at least the foregoing reasons stated above. Therefore, Applicants respectfully request that the Patent Office withdraw the rejection of dependent Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over DeMent.

IV. Allowable Subject Matter

Applicants note with appreciation that the Patent Office has objected to Claim 10 as being allowable if rewritten in independent form, and has allowed Claims 13-16.

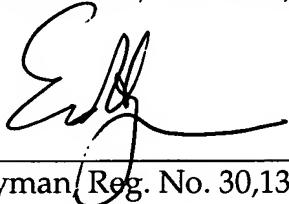
CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

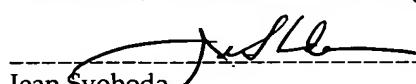
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: 8/15/03 By: 

Eric S. Hyman, Reg. No. 30,139

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450 on August 15, 2003.


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